

On May 28, 1997 appellant, then a 25-year-old bookbinder, filed a traumatic injury claim alleging that on that date, while she was lifting a bundle of currency, she felt a strain in her lower right abdomen. The Office accepted appellant's claim for lumbar and thoracic strain and a

herniated disc at the L4-5 level. Appellant stopped work effective July 25, 1997 and compensation benefits have been paid.

In a memorandum dated October 15, 2004, the Office indicated that appellant was covered by basic life insurance from the date of hire, October 10, 1989 until her removal effective November 25, 2000. On October 19, 2004 it was indicated that basic life insurance premiums had not been deducted from her compensation payments and that she received an overpayment. The Office indicated it would start deducting life insurance benefits at a rate of \$8.10 per 28-day cycle commencing October 3, 2004. In an internal memorandum dated January 10, 2005, it was noted that the wrong amount was being deducted for life insurance premiums and that deductions should be made in the amount of \$16.20 every 28 days.

On February 9, 2005 the Office issued a preliminary determination that appellant received an overpayment in the amount of \$1,665.78. The Office calculated the amount of the overpayment by noting that the following deductions should have been made: from July 25, 1997 through April 24, 1999 deductions should have been made in the amount of \$18.48 for 24 pay periods for a total of \$443.52; from April 25, 1999 through January 25, 2003 deductions should have been made in the amount of \$17.36 for 49 pay periods for a total of \$850.64; and for the period January 26, 2003 through October 2, 2004, deductions should have been made in the amount of \$16.80 for 22 pay periods for a total of \$369.82. The Office also noted that an underdeduction occurred for the period October 3 through December 25, 2004 in the amount of \$.60 for 3 pay periods, or a total of \$1.80. The total amount was \$1,665.78, which the Office found appellant was overpaid. Appellant was found to be not at fault in the creation of the overpayment and financial forms were sent with instructions for her to complete to request a waiver. She was also informed that if she wanted a prerecoupment hearing, it must be requested within 30 days from the date of the February 9, 2005 notice. The Office enclosed an election form for appellant to complete indicating how she wished to proceed.

Appellant returned the election form and checked the last line, indicating that she wanted a hearing. She crossed through the line indicating that she requested waiver of the overpayment, replacing the word "overpayment" with "claim." Appellant also crossed through the word "financial," thereby indicating that she was not enclosing financial forms. She signed the request with the date of March 3, 2005. However, the document was not received by the Office until March 21, 2005.

Appellant also submitted written response, indicating that her life insurance had been terminated effective November 25, 2000. In support thereof, she submitted a form from the Office of Personnel Management (OPM), which indicated that appellant's life insurance had been terminated on November 25, 2000.

On June 29, 2006 the Office finalized its preliminary determination that appellant had received an overpayment of \$1,665.78. It stated that the overpayment occurred as optional life insurance benefits were not deducted from her compensation beginning in 1997. The Office set a repayment schedule.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.¹ When an overpayment has been made to an individual because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.²

Under the Federal Employees' Group Life Insurance Program (FEGLI), most civilian employees of the Federal Government are eligible to participate in basic life insurance and one or more of the options.³ The coverage for basic life insurance is effective unless waived⁴ and the premiums for basic and option life coverage are withheld from the employee's pay.⁵ At separation from the employing establishment, the FEGLI insurance will either terminate or be continued under compensation status. If the compensation chooses to continue basic and optional life insurance coverage, the schedule of deductions made will be used to withhold premiums from his or her compensation payments.⁶ When an underwithholding of life insurance premiums occurs, the entire amount is deemed an overpayment of compensation because the Office must pay the full premium to OPM upon discovery of the error.⁷

ANALYSIS

The Board finds that this case is not in posture for decision. With regard to fact of overpayment, appellant submitted an OPM form indicating that her life insurance benefits were terminated on November 25, 2000. The Office's findings of overpayment in this case is premised on the fact that deductions for life insurance were improperly made through December 25, 2004. The Office never addressed this evidence. Furthermore, the Board notes that, while the preliminary finding indicated that basic life insurance premiums were not properly deducted, the final decision indicated that optional life insurance premiums were not properly deducted. There is no evidence that appellant elected optional life insurance coverage. Accordingly, this case will be returned to the Office for consideration of whether appellant's life insurance benefits were terminated on November 25, 2000. After such further development as it deems necessary, the Office should issue a *de novo* decision.⁸

¹ 5 U.S.C. § 8102(a).

² *Id.* at § 8129(a).

³ *Id.* at § 8702(a).

⁴ *Id.* at § 8702(b).

⁵ *Id.* at § 8707.

⁶ *Id.* at § 8706(b).

⁷ *Id.* at § 8707(d); see *James Lloyd Otte*, 48 ECAB 334 (1997).

⁸ In view of the Board's determination on fact of overpayment, it is premature to address any other issues at this time.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 29, 2006 is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 13, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board